

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM SCHEIDLER,

Plaintiff,

v.

JAMES AVERY, et al.,

Defendants.

CASE NO. C12-5996 RBL

ORDER DENYING RECUSAL

THIS MATTER is before the Court on *pro se* Plaintiff William Scheidler's Motion to Recuse under 28 U.S.C. §144 and §455. Plaintiff's underlying lawsuit asserts various claims against various Kitsap County officials, including a deputy prosecutor. Plaintiff claims that because Judge Leighton defended attorneys from malpractice claims while in private practice, he will be biased against Plaintiff in this case.

28 U.S.C. §144 requires a party seeking such relief to substantiate his claim of bias or prejudice:

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

1 The affidavit shall state the facts and the reasons for the belief that  
2 bias or prejudice exists, and shall be filed not less than ten days  
3 before the beginning of the term at which the proceeding is to be  
4 heard, or good cause shall be shown for failure to file it within  
5 such time. A party may file only one such affidavit in any case. It  
6 shall be accompanied by a certificate of counsel of record stating  
7 that it is made in good faith.

8 Section 455(a) similarly provides:

9 Any justice, judge, or magistrate judge of the United States shall  
10 disqualify himself in any proceeding in which his impartiality  
11 might reasonably be questioned.

12 Plaintiff has not met the requirements of either recusal statute, and his claim of general  
13 bias based on a portion of the Court's private practice a decade ago is insufficient as a matter of  
14 law. There is no claim and no evidence of any personal bias or prejudice.

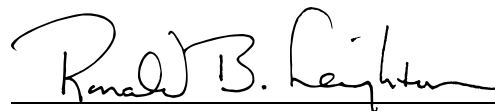
15 Under GR 8(c), Local Rules W.D. Wash., prior to a ruling on the motion by the chief  
16 judge, this Court may "review the motion papers and decide whether to recuse voluntarily."

17 This Court has reviewed the Motion and it will not recuse voluntarily. It therefore refers  
18 the matter to Chief Judge Marsha J. Pechman.

19 The Clerk shall send uncertified copies of this order to all counsel of record, and to any  
20 party appearing pro se.

21 IT IS SO ORDERED.

22 Dated this 27th day of December, 2012.

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Ronald B. Leighton  
United States District Judge